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Federal Communications Commission  
Office of Secretary

The Charlotte-Mecklenburg Public Broadcasting Authority

**Hal Bouton**

*President & General Manager*

May 28, 1997

Mr. William Caton  
Acting Secretary  
Federal Communications Commission  
1919 M Street, NW, Suite 222  
Washington, DC 20554

Re: RM-9060 - Rulemaking to Enhance Ability of MMDS and ITFS to Engage in Fixed Two-Way Services

Dear Mr. Caton:

CMPBA (Charlotte-Mecklenburg Public Broadcasting Authority), the licensee of ITFS station WHR-535, Charlotte, North Carolina, writes in support of the Petition for Rulemaking filed by representatives of the wireless cable industry on March 14, 1997 seeking greater flexibility in the deployment of ITFS and MMDS spectrum.

Several groups of ITFS entities filed Comments on May 14, 1997 that, while generally supportive of the concept of increased flexibility, expressed varying degrees of concern with aspects of the Petition. Because CMPBA believes the Petition reflected a careful and equitable weighing of the interests of the ITFS and MMDS communities, we write here to encourage the Commission to process the Petition towards the prompt adoption of a set of rules that reflects to the maximum extent possible the rules proposed in the Petition. CMPBA believes the rules adequately protect the interests of ITFS entities, primarily because the rules do not impose obligations on the part of ITFS licensees who do not wish to become part of a two-way cellular design. The ITFS licensee is under no obligation to enter into a lease agreement, to file FCC applications, or to accept undesired signal levels, in order to be part of or to facilitate the development of a cellular system within its community of licensee. Indeed, CMPBA emphasizes what is patently obvious - the reality that the educational entity that is the licensee of ITFS channels has complete and unfettered discretion over how to deploy its channels. It is the ITFS licensee that must file one or more applications for response station hubs that will utilize co-channel spectrum and the proposed rules do not diminish the interference protection criteria currently employed in the FCC's rules.

Therefore, CMPBA does not share the concern expressed by certain ITFS commenters that the Petition seeks what could result in a *de facto* reallocation of ITFS spectrum. CMPBA would encourage the Commission not to regulate the relationship between the commercial and educational entities any more than is necessary to insure a result that is in the public interest, lest the regulations create levels of complexity that will hinder rather than facilitate the development of this still emerging industry.

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CMPBA sees great educational potential in the use of ITFS spectrum for two-way services. The ability to exchange information with our receive site customers on a cost-effective basis holds virtually unlimited potential for our distance learning agenda. We have the interest and the need for two-way services today, and are merely awaiting the tools to be able to realize our goals. CMPBA respectfully suggests that the Commission's guiding focus should be on expediting the Petition, and on adopting rules that facilitate flexibility and agility. An overly cautious, time-consuming and restrictive approach to adopting rules could prove costly for the ITFS community, which has come to rely substantially on its commercial partners. To the extent the wireless cable industry succeeds, the ITFS community stands to reap the benefits of technological innovations and the enhanced ability to serve our constituency. The converse is also true. Without a commercially viable wireless cable industry, the deployment of ITFS spectrum no doubt will become much less broad in scope and purpose. At some point, overly rigid regulations that dictate essential terms of the relationship between the ITFS entity and the commercial lessee can work to the detriment of the ITFS community. CMPBA feels secure in its ability to negotiate lease terms that protect our educational interests. As long as the proposed rules do not dictate that we must participate in cellularization, this institution feels sufficiently protected by the Commission's current rules, and by the rules proposed in the Petition.

In sum, the Commission should be wary of being unnecessarily "paternalistic" when it comes to protecting the ITFS community. CMPBA believes public interest benefits will flow more by the adoption of rules that allow this industry to compete in a highly competitive environment. To a large extent, the interests of educators and commercial operators in rules that permit prompt and flexible authorizations are entirely parallel. CMPBA believes the Petition strikes proper balances, and is anxious to see the Commission issue a Notice of Proposed Rulemaking at the earliest opportunity.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "H.A. Bouton", with a long, sweeping horizontal line extending to the right.

Harold A. Bouton

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